IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA BIG STONE GAP DIVISION

JENNIFER C. DAUGHERTY,	
Plaintiff,) Case No. 2:06MC00013
v.	OPINION AND ORDER
JO ANNE B. BARNHART, COMMISSIONER OF SOCIAL SECURITY,) By: James P. Jones) Chief United States District Judge)
Defendant.))

H. Ronnie Montgomery, Jonesville, Virginia, for Plaintiff.

The plaintiff has filed an application to proceed in forma pauperis in this social security disability case, pursuant to 28 U.S.C.A. § 1915 (West Supp. 2006). The magistrate judge, to whom such applications are referred, denied the application "based upon the plaintiff's failure to state the amount of equity owned in real property." (Order, Dec. 12, 2006.) The plaintiff has filed objections to the magistrate's judge's order which objections are now before me for consideration. I will review the application de novo.

In her supporting declaration, the plaintiff asserts that she has received no money from any source in the last twelve months, that she has \$150 in a checking account, and that she owns the following described property: "Buying home

approximately \$60,000.00[;] Car approximately \$3,000.00[; and] Van approximately

\$800.00." (Application \P 5.) She also states that she has no dependents.

While a litigant need not be destitute in order to be entitled to proceed under

§ 1915 without prepayment of fees, see Potnick v. Eastern State Hosp., 701 F.2d 243,

244 (2d Cir. 1983), the value of the property listed, with no indication of any unusual

expenses or other extreme circumstances, is an insufficient basis to grant such an

application. It is correct, as the plaintiff asserts, that the application form supplied by

the court does not require the applicant to state the amount of equity owned in

property. Absent any such indication, however, the court must assume that the

plaintiff has sufficient clear ownership in a \$60,000 home to be able to afford the cost

of filing this action.

For the foregoing reasons, it is **ORDERED** that the objections are overruled

and the application is denied without prejudice to the submission within 30 days of

additional information in support of the application.

ENTER: December 20, 2006

/s/ JAMES P. JONES

Chief United States District Judge

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